IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 438 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ORIENTAL INSURANCE CO LTD - Appellant(s)
Versus
CHANDANBEN MANILAL & 2 - Defendant(s)

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Appearance :

MR RAJNI H MEHTA for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1,
MR NS SHETH for Defendant(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 27/12/2006

ORAL JUDGMENT

The Insurance Company has filed this appeal to challenge the judgment and award made in M.A.C. Petition No. 373 of 1987 dated

21/11/1990 by the Motor Accident Claims Tribunal No. 2, Ahmedabad. By the said award the respondent no. 1 has been granted compensation of Rs.16,800/- together with interest at the rate of 9% p a from the date of application till realization and proportionate costs.

2. Respondent no. 1 had filed the aforesaid claim petition for the injuries received by her in a vehicular accident which occurred on 24/7/1987 at about 5.00 p m near Juna Dhor Bazar Road, Ahmedabad. She filed the application before the Tribunal to claim compensation of Rs.25,000/-. At the hearing, the appellant raised a contention that the owner has played fraud on the Insurance Company and, therefore, the appellant is not liable to satisfy the award.

2.1. The Tribunal, on the basis of the material produced before it, arrived at a conclusion that the accident occurred due to negligence of the driver of the offending vehicle. It also found that no fraud was committed and ultimately saddled the appellant with the liability to satisfy the aforesaid award.

3. Before this Court, learned counsel appearing for the appellant has raised a solitary contention regarding the fraud played on the Insurance Company. I have perused the discussion of the Tribunal made in its judgment and I find it to be completely in consonance with the evidence on record. I do

not find any error having been committed by the Tribunal on this part. Hence, contention of the counsel cannot be accepted. Apart from that, the amount involved is only Rs.16,800/- and as such on the ground of smallness of the amount, this appeal can be disposed of. Hence, I do not find any merit in the appeal and it is hereby dismissed.

The Tribunal is now directed to pay the amount lying in deposit to respondent no. 1 by Account Payee Cheque after due verification.

[Akshay H Mehta, J.]

* Pansala.